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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/771,720	02/04/2004	Fritz Leber	ZAHFRI P602US	4126
20210	7590	04/11/2005	EXAMINER	
DAVIS & BUJOLD, P.L.L.C. FOURTH FLOOR 500 N. COMMERCIAL STREET MANCHESTER, NH 03101-1151			BONCK, RODNEY H	
			ART UNIT	PAPER NUMBER
			3681	

DATE MAILED: 04/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/771,720

Applicant(s)

LEBER, FRITZ

Examiner

Rodney H. Bonck

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>02/04/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The following is a first action on the merits of application Serial No.10/771,720, filed February 4, 2004.

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

Receipt is acknowledged of the Information Disclosure Statement filed February 4, 2004. The cited documents have been considered.

Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The term "performance matrix" lacks an antecedent basis in the specification.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the

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art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 13 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. This claim recites a "performance matrix" but the disclosure fails to adequately describe what applicant considers to be a "performance matrix" or how a person in the art would arrive at a "performance matrix".

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 11-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In line 4 of claim 11, "a speed sensor" is recited and then, in line 6, "a speed sensor" is recited. Reference numbers are not used in interpreting the scope of the claim. Thus it is unclear whether the speed sensor recited in line 6 is the same as or in addition to that recited in line 4. In claim 13, the intended meaning of "a performance matrix" is unclear. The intended antecedent of "the rotation speed sensor" in claim 14 is not clear since it appears that two sensors have been defined. Claims 17-19 each call for "a sensor", and it is unclear whether this is the

same as or in addition to sensor(s) already defined. In claim 20, the intended meaning of "positioned after" is unclear.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 11, 12, 14-18, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Olson et al.(H964). The Olson et al. device is a hydrodynamic torque converter comprising a clutch 50 ahead of a pump impeller 30 and connected to a drive mechanism. A turbine rotor is provided at 88. Rotation speed of the turbine rotor is detected by speed sensor 176 and transmitted to an electronic control unit 168. A rotation speed of the pump impeller is transmitted by a speed sensor 132 to the electronic control unit 168. The clutch 50 can be operated with clutch slippage. The speed sensor 132 is arranged on a positionally fixed component, stator shaft 74. The pump impeller wheel has a flange 35 having a means 134 for speed detection. The teeth on pickup ring 104 constitute cams in the same sense as in the instant invention for use in detecting speed. The sensor for determining the speed of the pump impeller is arranged inside the converter housing and can be considered arranged parallel to the converter rotation axis (see Fig. 2) as claimed. The sensor can also be considered to

be arranged at right angles to the rotation axis, depending on which axis of the sensor is considered. The clutch 50 in Olson et al. is inside the converter housing as claimed.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Olson et al.(H964). In the Olson et al. device the sensor for the speed of the impeller is not arranged "outside a converter housing" as claimed. Olson et al., however, discloses that it is known to provide an extension of the impeller to provide a more accessible point for the sensor outside the housing and proposes the internal sensor as an improvement over the more expensive arrangement with an impeller extension. To return to the prior arrangement and eliminate the Olson et al. improvement would have been considered obvious within the meaning of 35 USC 103.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lysholm et al.('684) is cited to show impeller extension 112 (Fig. 2). Allen et al.('417) is cited to show clutch 27. Shirai et al. show an external sensor 71.

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Nogle('401) shows sensors 180,181. Sakakibara et al.('351) is cited to show external sensor 71. Mamo('197) shows a performance diagram for a torque converter.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney H. Bonck whose telephone number is (571) 272-7089. The examiner can normally be reached on Monday-Friday 7:00AM - 3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles A. Marmor can be reached on (571) 272-7095. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Rodney H. Bonck
Primary Examiner
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rhb
April 6, 2005